

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BRYAN O'BRIEN, and
PAWEENIT BURANAVORAKUL

Plaintiffs,

v.

PRETI, FLAHERTY, BELIVEAU &
PACHIOS LLP, JOHN SULLIVAN, MIKE
LANE, and PAM LORING

Defendants.

Civil Action No.

NOTICE OF REMOVAL

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS:**

Pursuant to 28 U.S.C. § 1446, Defendants Preti, Flaherty, Beliveau & Pachios, LLP (“Preti”), John Sullivan, Mike Lane, and Pam Loring, (collectively “Defendants”), by their attorneys, hereby file this Notice of Removal. As grounds for this removal, Defendants respectfully submit that:

1. On or about January 12, 2021 Plaintiff Bryan O’Brien, an attorney barred in both Maine and Massachusetts, commenced a civil action against his former employer, Defendant Preti, in the United States District Court for the District of Massachusetts, captioned *O’Brien v. Preti Flaherty Beliveau and Pachios, LLP*, Civil Action No. 1:21-cv-10057-RGS (“Federal Court Action”).

2. The case was assigned to Judge Richard Stearns.

3. On May 4, 2021, Preti filed a Motion to Dismiss and Compel Arbitration in connection with the Federal Court Action, due to the presence of a binding arbitration agreement that covered the claims at issue in Mr. O'Brien's Complaint.

4. On May 27, 2021, Judge Stearns granted Preti's Motion to Dismiss due to the valid arbitration agreement and Mr. O'Brien's failure to oppose Preti's Motion to Dismiss.

5. On June 23, 2021, Mr. O'Brien filed a Motion to Alter Judgment that was promptly denied by Judge Stearns on June 25, 2021.

6. Mr. O'Brien subsequently appealed the decision to deny his Motion to Alter Judgment in the United States Court of Appeals for the 1st Circuit.

7. While his appeal was pending, Mr. O'Brien filed a Demand for Arbitration and Mediation with the American Arbitration Association on October 31, 2021.

8. On or about November 4, 2021, Plaintiff Bryan O'Brien commenced a civil action against Defendant in the Suffolk County Superior Court of the Commonwealth of Massachusetts, entitled *Bryan O'Brien v. Preti, Flaherty, Beliveau, & Pachios, LLP*, Civil Action No. 2184CV02540 ("State Court Action").

9. On December 22, 2021, Preti was served with a copy of the Complaint in connection with the State Court Action.

10. On January 11, 2022, Preti served Mr. O'Brien with a Motion to Dismiss the State Court Action on claim preclusion grounds, lack of subject matter jurisdiction, and the valid arbitration agreement in connection with the State Court Action.

11. On January 26, 2022, the First Circuit affirmed the dismissal of the Federal Court Action, specifically noting Mr. O'Brien abandoned any claim that the matter was not subject to arbitration.

12. Mr. O'Brien did not oppose the Motion to Dismiss in the State Court Action, leading Preti to file it directly with the Superior Court without opposition.

13. Mr. O'Brien then filed a 269-paragraph amended Complaint on February 23, 2022, adding his wife Paweenit Buranavorakul as a co-Plaintiff and adding John Sullivan, Mike Lane, and Pam Loring as Defendants.

14. Pursuant to 28 U.S.C. § 1446(a), true and accurate copies of all process, pleadings, and orders to date in the State Court Action are attached hereto as Exhibit A.

15. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been filed with this Court within ten (10) days of service of the Amended Complaint in the State Court Action.

6. No further pleadings or proceedings have occurred in the State Court Action.

7. The State Court Action is being removed to this Court on the grounds that original jurisdiction of this action is in this Court. Specifically, Plaintiffs' claims arise under a federal question.

8. This Court has original jurisdiction over this action by virtue of federal question jurisdiction pursuant to 28 U.S.C. § 1331.

9. Specifically, in Counts III and IV of the Amended Complaint, Plaintiffs bring claims under 29 U.S.C. § 2615 for alleged violations of the federal Family and Medical Leave Act.

10. Because United States District Courts have original jurisdiction over actions involving federal question, pursuant to 28 U.S.C. § 1331, removal of this case to this Court under the circumstances herein is proper.

11. Accordingly, the State Court Action is removable to the Court under 28 U.S.C. § 1441(a). Furthermore, this Court may exercise supplemental jurisdiction over the Plaintiffs' state law claims. See 28 U.S.C. §1367(a).

12. Venue is proper because the Suffolk County Superior Court of the Commonwealth of Massachusetts, the court where the State Court Action is pending, is embraced within "the district and division" of this Court. 28 U.S.C. § 1441(a).

12. By copy of this document and in accordance with the Certificate of Service, Defendants are providing notice to all Parties in this action advising of the filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

13. Defendants submit this Notice without waiving any defenses to the claims asserted by Plaintiffs or conceding Plaintiffs have pled claims upon which relief may be granted.

14. Defendants will notify the Suffolk County Superior Court and Plaintiff of this Notice of Removal by filing with the Superior Court a Notice of Filing of Notice of Removal. A copy of that notification, which will be sent to the Suffolk County Superior Court, is attached hereto as Exhibit B.

WHEREFORE, Defendants pray that the State Court Action now pending against them in Suffolk County Superior Court of the Commonwealth of Massachusetts be removed from there to this Court. Defendants further pray that the case be assigned to Judge Stearns due to his familiarity with the claims asserted and the Parties at issue as a result of the related previous Federal Court Action.

Respectfully submitted,

PRETI, FLAHERTY, BELIVEAU & PACHIOS
LLP, JOHN SULLIVAN, MIKE LANE, and PAM
LORING

By their attorneys

/s/ Matthew A. Porter

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Dated: March 4, 2022

CERTIFICATE OF SERVICE

This hereby certifies that on this 4th day of March 2022 a true and accurate copy of the above document was filed with the Court via the ECF system and served upon Plaintiff via electronic and first-class mail.

/s/ Matthew C. Chambers

Jackson Lewis P.C.

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